

ORDINANCE NO. 46-556

AN ORDINANCE AMENDING SECTION 2.24.075 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DEFERRAL OF PAYMENT OF SPECIAL ASSESSMENTS AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 2.24.075 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Eligibility criteria for indefinite deferral of payment of special assessments.

(a) The following criteria are established to determine those property owners eligible for indefinite deferral of payment of special assessments pursuant to the provisions of Section 2.24.070:

- (1) Applicant must own the property assessed or be purchasing the property under a valid land sales contract;
- (2) Applicant must reside in the property assessed;
- (3) Property for which a deferral is sought must be located within the limits of the city and shall be a parcel not exceeding two acres in size and shall be a single building site; provided, however, that if a property owner meets all the criteria of this section except that the property assessed exceeds two acres in size, the property owner shall be eligible for indefinite deferral of that portion of the special assessment against such property equivalent to the ratio two acres bears to the total acreage of the property assessed;
- (4) Applicant's family's adjusted gross annual income shall not exceed the U.S. Department of Housing and Urban Development's median income family limits, very low-income level, based on the actual median income for the city. These guidelines are subject to change on an annual basis and shall be applied hereunder based on the then existing

guidelines. *Further, the annual principal and interest on the assessments must be in excess of one percent (1.0%) of the owners' adjusted gross annual income as reported for federal income tax purposes.*

An applicant or family member of an applicant who is a disabled person and/or over the age of sixty-five years and who is a head of household shall be counted as three persons in determining household size. An applicant or family member of an applicant who is not a head of household but who is disabled and/or over the age of sixty-five years shall be counted as two persons in determining family size.

(5) The appraised value of the property for which the deferral is being sought cannot exceed the average home value for existing homes within the Wichita MSA. This amount shall be obtained from the Wichita State University Center for Real Estate.

(b) The following terms, for the purposes of this chapter of the city code, shall have the following meanings:

- (1) "Disabled person" means any person who has a physical or mental impairment that substantially limits one or more major life activities.
- (2) "Head of household" means any person who, at the time application is made for deferral, is eligible to file a federal income tax return as head of household or is eligible to file a joint tax return under the Internal Revenue Code of the United States. Only one spouse may be designated as head of household.
- (3) "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(4) "Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotion or mental illness, and a specific learning disability. The term "physical or mental impairment" includes but is not limited to such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction or alcoholism.

(c) An applicant who meets the eligibility requirements of this section and who is granted an indefinite deferral of payment of special assessments shall consent to the filing of a lien against the applicant's property in the amount of the special assessment deferred. **At the time of application, the applicant will be required to pay the cost of the filing and subsequent release of the lien. The fee for such filing and release shall be determined by the Register of Deeds and is subject to change.** An applicant who is granted a deferral shall be required to furnish the city any information necessary to confirm the applicant's continued eligibility. In addition, before special assessment payments are deferred for years subsequent to the year in which deferral is first granted, the applicant shall consent to the filing of a lien against the applicant's property in the amount of each yearly special assessment payment which is deferred.

(d) Deferred payments of special assessments granted under the provisions of this section shall become due and payable upon a transfer of ownership of the

property; except that transfer by way of gift, devise or interstate succession to a person or persons eligible for deferral hereunder shall not cause such deferred payments to become due and payable.

(e) It is the intent of this section to provide a hardship deferral of special assessments on owner-occupied residential property for those years when payment is due and in which the owner(s) are eligible for such deferral. In years in which such payment is due and the owner is not eligible, the special assessment payment will be due and payable for that year in the same manner as for other property in the improvement district. It is the intent of the governing body in providing this program for hardship deferral of special assessments that the full amount of the original assessment (principal and interest) against properties whose owner(s) are granted deferral(s) will ultimately be paid to the city.

(f) Nothing contained herein shall be interpreted to limit the governing body's authority to adopt other provisions for the deferral of special assessments or to reduce or abate special assessments when it deems it advisable to do so under criteria it deems appropriate.”

SECTION 2. The original of Section 2.24.075 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 22nd day of March, 2005.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law